



**Stratham Planning Board
Meeting Minutes
December 06, 2017
Municipal Center, Selectmen's Meeting Room
10 Bunker Hill Avenue
Time: 7:00 PM**

Members Present: Bob Baskerville, Chairman
Jameson Paine, Vice Chairman
Tom House, Secretary
David Canada, Member
Mike Houghton, Selectmen's Representative
Nancy Ober, Alternate

Members Absent: Robert Roseen, Alternate

Staff Present: Tavis Austin, Town Planner

1. Call to Order/Roll Call

The Chairman took roll.

2. Review/Approval of Meeting Minutes

a. November 15, 2017

Mr. Paine made a motion to approve the meeting minutes of November 15, 2017 as submitted. Ms. Ober seconded the motion. Mr. Baskerville and Mr. House abstain due to non-attendance at the November 15, 2017 meeting. Motion passed with 4 votes for and 2 abstaining.

b. November 29, 2017

Mr. Houghton made a motion to approve the meeting minutes of November 29, 2017 as submitted. Mr. House seconded the motion. Mr. Canada and Ms. Ober abstain due to non-attendance at the November 29, 2017 meeting. Motion passed with 4 votes for and 2 abstaining.

3. Public Hearing

- a. **6-Lot Subdivision Application** to create five (5) new building lots at 8 Whittaker Drive, Stratham NH 03885, Map 19 Lot 68 submitted by Jonathan S. Ring, PE, Jones & Beach Engineers, Inc., PO Box 219, Stratham, NH 03885.

Mr. Austin stated this submittal is at the planning board's request for the applicant to submit information to allow the planning board to make a determination with regard to Section 4.4.3 of the Subdivision Regulations to determine whether a through road, or connector road, between Hillcrest and Whittaker is practical or impractical. The plans are a revised cul-de-sac design with an extension of Whittaker Drive and reflective of the comments by the planning board and town staff. The changes from the prior plan removes the "ears" at Whittaker Drive, which was discussed at prior meetings, and further down the through road there is a detention pond on Lot #3 and Lot #4 which will be taken care of with a homeowner's association. A through road is also provided that connects Whittaker to Hillcrest within the 50 ft. right-of-way on both ends, provided by the original developments. Also included are some wetland fill, drainage structures, etc. Jones and Beach submitted a narrative as to the distinction between the two plans, as well as costs and other considerations associated with either option. Civilworks submitted review comments in terms of making a determination. Mr. Austin stated staff's opinion is that the board has enough information needed to make a determination as to whether a through road is practical or impractical. Staff also recommends the board not continue discussion of either the through road or cul-de-sac since the plans before the board are not complete to further the dialogue tonight. Mr. Austin stated the board has a series of emails, received this evening, from DPW, the Chief of Police, and the Fire Chief regarding comments for the project.

Jonathan Ring, Jones and Beach Engineering, introduce Brian Sullivan and Kevin Baum, Hoefle, Phoenix, Gromley & Roberts,. Mr. Ring explained the plans are revised plans in accordance with the request and direction from the planning board at a meeting held in October. There are two versions of the plan which include five proposed new house lots. The first plan is the preferred plan, which is the Whittaker extension. The pond was moved from inside the cul-de-sac to the bottom of Lot #3 and Lot #4 that added a cross pipe, requested by Civilworks, as well as dropping the cul-de-sac 4-5 ft. to achieve the 4-5 foot elevation desired. Mr. Ring explained that the CAD technician engineer was able to make the through road work at Hillcrest. Hillcrest Drive starts dropping 100 ft. back of the cul-de-sac and the "ears" would be removed if that is what is desired. The 50 ft. right of way is narrow and has some issues. Lot #3 has a detention pond in the corner. Mr. Ring stated he, the applicant, Mr. Austin, Mr. Lavery, and Mr. Deschaine met on November 20, 2017 to preview the design and preliminary construction cost estimates, which are included in the packet. The construction cost estimates for the through road are approximately \$470,000 and the culdesac extension is approximately \$225,000. Vertical granite curbing is on the through road in order to control the storm water. Within the 50 ft. right of way, coming from Hillcrest, there are several waivers that would be involved; one is the vertical granite curbing going left and right; second is for a 22 ft. road which is also for the Whittaker extension; and third, on the Hillcrest side, there are no swales due to the narrow right of way and 2:1 side slopes for drainage. Mr. Lavery looked at the construction cost estimate and stated they looked reasonable to him and Mr. Connolly did a review. Mr. Connolly's comment #4 is the reason for the vertical granite curbing. If the

storm water is dropped along with the road into the pond there is an increase. If the curb is eliminated on the right side of the road coming from Whittaker there would be an increase down below since the water coming off the road cannot be controlled, which would increase the water on the lots. Mr. Ring stated the site topographic conditions make the continuance of the road impractical, not impossible. Mr. Ring stated the Whittaker extension is the preferred design. Mr. Ring stated the memorandum of November 16, 2017 includes 18 items in the memorandum. The total road length is 170 ft. longer from the through road to the culdesac, both roads have 22 ft. wide pavement, and the Hillcrest right of way is 50 ft. and very narrow. The surface pavement will have to be dropped 2-3 ft. on the Hillcrest side coming down towards the Graves property. The 30 inch cover will be reduced over the underground electric which goes to the lot that is on the left of that cul-de-sac to Graves property due to the road being cut. There is a catch basin on the right hand side, at the end of Hillcrest, which needs to be deepened and has a cross pipe. Mr. Ring explained he took pieces of costs from the construction cost estimate that were germane to the topic at hand. Two driveways will need to be reconstructed to the Graves property, as well as one of the abutters on the left hand side if the "ear" is removed and the pavement is dropped. The estimate for that work is \$2,600. On the 50 ft. right of way is a 2 ft. wide shoulder behind the vertical granite curb, 2 ft. less than the standard, and would need a waiver. There will be no ditch line so the drainage flows down that slope directly across the shoulder onto the pavement and into the catch basins; there is a 2:1 slope from station nine to 10+40 on the abutter side, vertical granite curb which requires the catch basins on the drainage pipe to control the water is estimated at roughly \$100,000. Wetland fill of approximately 5,500 sf. for the pass-by drainage pipe to go down the side of Lot #3 to get to the back. The cost estimates for Hillcrest through road is \$470,000 and the Whittaker cul-de-sac is approximately \$225,000. Item #13, most of the abutters present tonight are opposed to the through connection road and prefer the cul-de-sac and privacy that is generated by a cul-de-sac street. The street mailing addresses would have to be revised. There is a potential contamination of two dug wells on the Graves property. Item #16 there is a possible legal right of way issue to secure ability to construct Hillcrest connection over that 50 ft. right of way which was never deeded to the town by the 1986 developer, Robert Wilkins. There is a wildcard with respect to utilities for both Hillcrest and Whittaker if the road goes through, would Unitil and Comcast require all of the neighbors be upgraded with their conduit and better lines to their houses for service. A separate line is being proposed for utilities for this new project. Item #18 is a possible abutter appeal.

Mr. Ring replied to Mr. Connolly's memorandum. Item #1 topographic conditions with respect to the continuation which Mr. Ring feels it is impractical. Item #2 the through road is 160 ft., slightly longer, but significantly more costly. Mr. Connolly mentions a possible pipe at station 0+50 which is on the Whittaker cul-de-sac extension, there is a catch basin to the left of Whittaker cul-de-sac, which will allow the drainage to drop into the catch basin and doesn't need a cross pipe. The vertical granite curbing is to control the storm water so there would be no waivers for a through road plan relative to the drainage. The overall length of the cul-de-sac Whittaker extension exceeds the 800 ft. and a waiver is requested. The abutters will speak to their opposition to the connection. Item #8 is impractical. There may be a slope waiver for one slope of the road, the curve for the through road is steeper than 4%, and the regulations state there should be waiver so that will be requested as well. Mr. Ring stated the through road is possible but at a significant expense and disruption to the neighborhood and, therefore, is impractical.

Kevin Baum, attorney representing the applicant, reiterated the criteria before the board is whether the plan is practical or impractical. It has been demonstrated that it is possible. Practicality is a different criteria and is a lower standard. Attorney Baum stated, respectfully, based on everything presented, primarily outlined in the memorandum that it has been shown that this is impractical. As the board has discussed in the past, financial impact is not the only criteria, but it is a significant one, and is fairly telling how much additional cost, more than double, to extend to Hillcrest. Attorney Baum stated even if the items Civilworks raised are discounted, which Mr. Ring explained why the costs were included, it is still \$124,000+ increase in costs for a short increase in road and speaks to the impracticality in addition to the slopes and wetland impact, which goes beyond just the cost to the applicant, but the environmental impact as well as to the users. Mr. Ring mentioned the right of way issue and it was found there is a gap between the road deed that was conveyed and the right of way. As shown on the plan, it was never actually deeded and needs to be corrected. Attorney Baum stated it is an issue on both ends and there has been contact with the Whittaker developer, VET, and two of the original partners, and is confident that a quit claim deed will fix the issue. A quick search was made to find Robert Wilkins with no results. With respect to Mr. Austin's memorandum Attorney Baum stated there is some suggestion that the abutter concerns were not a proper review consideration for this board, and respectfully disagreed.

Mr. Baskerville entered into the record an emails received December 6, 2017 from Colin Laverty, Department of Public Works addressed to the Planning Board, Board of Selectmen, and Paul Deschaine:

"I am writing in support for a through road connecting the Whitaker and Hill Crest Subdivisions. The through road would make winter maintenance easier and save The Highway Department time rather than plowing two cul-de-sacs. The road will also provide Public Safety Departments as well as residents, more than one access point should one end of the subdivisions be blocked off due to storm damage, structure fire, etc.

All Town Public Safety Departments, (Highway, Fire, and Police) are in favor of the through road proposal.

If you have any questions or concerns, please let know."

Another email dated December 5, 2017 was received from Chief John Scippa, Stratham Police Department, and Matt Larrabee, Stratham Fire Department Chief:

"Yes I would like to see a connector road. From the FD perspective it is much easier to have a loop the a dead end and I would also like to see a cistern installed on some of the tear drop at the end of Whitaker as I'm assuming that large area won't all remain hot top.

Thanks, Matt"

"Gents

I support this for the reasons offered by Colin.

Thanks, JS"

192
193 Mr. Austin stated what isn't addressed in the staff review or staff comments that were
194 provided in response to the November 16, 2017 memorandum, was provided by the
195 applicant. Mr. Austin stated there was no town concern about #16 and the underlying
196 possible legal right of way issue if the town does have a legal right of way and if someone
197 wanted to assert claim of ownership on the underling land it still does not negate the right of
198 way issue. There was no concern expressed about the required waivers that would be posed
199 by either of the proposals, including 2:1 slopes, 2 ft. shoulders, etc. There was discussion on
200 the wetlands permits that would be required for the through road and Mr. Ring indicated he
201 didn't foresee any issues of obtaining that permit through DES. Mr. Austin confirmed the
202 full design of either plan has not been completed. Mr. Austin stated the phrase "impractical
203 and practical" has been discussed several times and the planning board is required to read the
204 paragraph under 4.4.3, specifically the last sentence, prior to the discussion of all of the dead
205 end options in the regulations so all are clear individually as to what it is. The public health,
206 safety welfare sentiment is not being discredited by the abutter's comments, but as the
207 regulations were establish to further the very public health, safety, and welfare merit the
208 planning board adopted regulation 4.4.3 and it doesn't speak to financial or abutter concerns,
209 it speaks to topographic conditions. Paul Deschaine, Town Administrator, stated his
210 recollection is there has been a public dedication by the subdivision and whether that
211 dedication has been deeded to the town or not, it is still a dedication and cannot be reversed
212 without some other action by a public body. Mr. Deschaine understands the abutter's lands
213 do not include this right of way in their title or lot lines and are described to the right of way
214 edge. The owner could have been Mr. Wilkins and if he wishes to come back and claim it,
215 and maintain the road if it is built there, he can. The likelihood of contesting the use of that
216 for other than the dedication for which it was laid out, seems very small and the town wanted
217 to do a quiet title action and try to resolve the issue but Mr. Deschaine is unsure of the
218 purpose behind it. Mr. Baskerville stated there were some studies done a couple decades ago
219 and there is a very good book out for New Hampshire, A Hard Road To Travel. The study
220 shows that a tremendous amount of roads in New Hampshire are not owned by the towns.
221 Back in the day people started using the roads, the towns starting maintaining the roads, but
222 the town never received a deed for the road and it is very common. The question becomes,
223 does the town have an access and right of way to use it and maintain it. The Town of
224 Stratham has the right of way to do it, and normally would need to own it, but it is very
225 common that the town doesn't necessarily own all the roads. Attorney Baum stated if the
226 applicant convey any title, they can't be included in the road deed, and there is a question
227 about what happens when there is a dedicated road, unlike the situation described, and there's
228 some prescriptive right over time, but there's still some question to what the title is to the 50
229 ft. right of way. Attorney Baum stated there is no definition of practicability for 4.4.3, it is
230 up to the board to determine what that means.

231
232 Mr. Baskerville explained both options. The first is to extend Whittaker; the road is an
233 improvement, there's not as much filler on the cul-de-sac, the pond is down on the edge of a
234 wetland right at a buffer so there'll be an association for the 5 lots to maintain it which Mr.
235 Baskerville does not agree with, and all the lots remain the same. The second is a through
236 road; the turnaround is removed at the end of Hillcrest and remains going downhill, 7.5%
237 grade at the peak which is within town regulations, the cut on the right is not bad going down
238 to the driveway of the Graves lot, and looks like it is close to grade so there's no easement
239 required on Mr. Graves lot, drainage basin moves up next to the road instead of down by the

wetlands, all lots appear to be the same, and the curbing can be decided when the design is complete to maintain drainage. Mr. Baskerville stated both design look good. Mr. Canada stated it is hard to justify or ask the applicant to spend so much extra money, but everything else looks like the design should be a through road and understands the abutters concerns. Mr. House stated the through road design appears to help Mr. Graves with a flat entrance to his driveway. Mr. Ring explained the plan to the board with regard to the entrance off of Hillcrest. Ms. Ober stated most likely the only traffic that will be traveling on this road are the residents that live on that road. Mr. Paine stated the through road looks possible and maybe a pervious surface could be used to help control the drainage. Mr. Paine explained he understands the abutters concerns, but there is an existing right of way there for a reason and the long term planning for the town. Mr. Houghton asked Mr. Ring to explain the different waivers for each design. Mr. Ring stated with Whittaker extension there will be a 22 ft. pavement, the length of the cul-de-sac which is further than the 800 ft.; on the Hillcrest there will be a waiver for the vertical granite curb, the width of the shoulder from 4 ft. to 2 ft., no swales beside the road because they won't fit in the 50 ft. right of way, instead of a 3:1 slope going up to the abutter on the right hand side coming down Hillcrest there will be a 2:1 slope, on the Hillcrest plan CPP3 there'll will be a 5% slope instead of the maximum 4% on a curve in the regulations. Mr. Ring stated that each new house lot will have a stone drip edge around each house, the raingarden, the driveway low point, and the features will be shown on the leachfield plans once it goes to final design. Mr. Baskerville asked Mr. Ring to note that the pond for the Whittaker extension plan appears to have some spots that are 4-6 ft. deep and it is next to the wetland so it might be below the water table. Mr. House asked Mr. Ring if Mr. Graves well will be effected. Mr. Ring stated there are two dug wells on the Graves property and Mr. Graves can speak to that question. Mr. House questioned if there is a catch basin on the Hillcrest turn. Mr. Ring stated yes.

Mr. Baskerville opened the hearing up to public comment at 7:55 pm.

Robert Hillery, 5 Whittaker Drive, asked for clarification that tonight's hearing is to determine if the through road for this development is practical or impractical. Mr. Baskerville stated yes. Mr. Hillery supports the cul-de-sac plan as opposed to the through road. A significant number of issues have been raised and are reasonable, especially shoehorning heavy equipment on the slope without significant issues, including probably cutting through the water table on the steep grades on the north or uphill side of the straight through road. Mr. Hillery is not concerned with the traffic of the through road. Mr. Hillery stated a dead-end is not being created, it already exists. The load on DPW is not being reduced it already exists. Mr. Laverty may have more issues than he realizes with the curves and grade with the through road and executing snowplowing.

Melissa Gahr, 5 Orchard Hill Road, stated she is a member of the Pedestrian & Cyclist Advocacy Committee and would like to read the Master Plan with regard to **Dead-End Roads**.

"There are a large number of dead-end roads in Stratham. The town now limits the length of dead-end roads to 800 feet. This policy is in place because long dead-end roads create an inefficient road network which tends to require the use of a small number of major roads for most trips (e.g. Portsmouth Ave.) and necessitating that vehicles retrace routes. It is also a safety concern due to longer than necessary travel time and possible blockages to access. A

large number of residences served by only one access increase the risk of emergency vehicles not being able to respond because the one road entrance may be blocked for some reason. For these reasons, the Planning Board should maintain and enforce the limit on the length dead-end streets.”

Lori Zaniboni, 116 High Street, questioned when the master plan was created. Mr. Austin stated 1985. Ms. Zaniboni stated the master plan is revised and implemented within 5 years and since this application was submitted there have been several new cul-de-sacs approved by this board. 4.4.3 notes a 60 ft. right of way and questioned the through road which has a 50 ft. right of way. Mr. Ring stated the right of way on the Sullivan property is 60 ft. wide and the right of ways to get there are 50 ft. wide. Ms. Zaniboni asked for clarification that a through road would require a cut into the land creating a steep slope, which would be right on her property line, and when her property starts eroding who will be financially responsible or prevent that from happening. Mr. Ring stated Ms. Zaniboni’s property will remain grass or trees and the cut will be at least 2 ft. away. Mr. Ring stated the town will take responsibility if the eroding occurs after the road is accepted by the town. Ms. Zaniboni questioned if the town has a grading setback. Mr. Baskerville stated the town can grade right up to the edge of the right of way. Ms. Zaniboni stated she bought her house because it is extremely private. When she bought she knew there would be traffic in the front of the house and the through road would create another road on two sides of her house. Ms. Zaniboni questioned if the police chief was asked about safety concerns, especially with children when houses have roads on two sides of them. Mr. Baskerville stated the police chief has looked at the plans several times and gave his input, but was not asked about any specific issues. Other abutters will speak and the abutters have stated they do not want a through road for many reasons. The planning board needs to hear what the abutters are saying and should protect what is in the best interest of the current residents and adhere to the subdivision rules and regulations; there are more waivers for the through road than with the cul-de-sac.

Don Graves, 5 Hillcrest Drive, asked there is a setback to grading to property lines not in the regulations and to look at Sheet C2 regarding 4.4.3 topography. When the road is cut up into Hillcrest Drive to cut the road, the drainage plan is increased. Mr. Graves stated he is at the low point and there is a 375 ft. long 36 inch diameter culvert which goes out past his barn and exits. Mr. Graves stated there is no room for a maintenance easement if there is a problem with the culvert. Mr. Graves explained that the water discharging on the property line with the topography will come onto his property. Mr. Graves read **Site Plan Review Regulations, 1.2 Purposes:** “to provide for a safe and attractive development with the site regarding such conditions that would involve danger or injury to health, safety, and prosperity by the reason of inadequate drainage or conditions conducive of the flooding of the property or that of another.” Mr. Graves stated the laws of physics will make the water flow downhill and come across the property line. Mr. Graves stated the **Article 5.3, Storm Drainage** regulation states “An adequate surface storm water drainage system must be provided.” and “No increase in surface runoff shall be permitted if such increased runoff passes beyond the property lines unless it is to be within an existing approved public storm drainage system.” Mr. Graves stated there is no public storm drainage system down there. Mr. Graves stated storms like the 2007 Mother’s Day storm would put in excess of 72,000 gallons of water charging downhill. The proposed pond is 85 ft. from Mr. Graves well and if all the conditions come together at the worst event, winter, rain, salt, ice it will become a contamination for lection zone. Mr. Graves is concerned with the cuts being proposed and

the possibility to intercept the ground water which is feeding his well. Mr. Graves stated with this past year's drought, his dug well is approximately 25 ft. deep, the water never got lower than 15 ft. Mr. Baskerville asked if the dug wells are used for drinking water. Mr. Graves responded one well is for the house and the other well is for the horses. Mr. Graves stated **Article 5.2, Landscape Design Standards**, No. 8 "Offer adequate buffering between abutting parcels to protect the neighboring properties from potentially adverse impacts of structures, lighting, glare, noise, wind velocities, and odors." Mr. Graves reiterated that this will be right on the property line and the buffer zone will be removed. Mr. Graves spoke to Mr. Paine's early concern with the runoff heading towards a drilled well, and this is an intense runoff going to a holding pond to a dug well and the chances of contamination are grand. Mr. Graves has documented water tests, at present, and there is no salt in his well. Mr. Graves stated if his well gets contaminated the town will be buying wells. Mr. Graves previously offered an expert witness letter saying the soils delineation was inaccurate, a site walk was conducted with Chris Albert, Jones & Beach, in attendance and their tests were corrected. Mr. Graves stated the delineation is erroneous, with his leach field design background, delineating hydric A&B soils, and respectfully requests that an impartial third party, Rockingham County Conservation Commission, put the lot and the location of leachfields. Mr. Graves stated he is not opposed to through traffic or having an asphalt access to his driveway, he is extremely concerned with the concentration of water that is being put on his property line. The slope of Mr. Graves driveway is going to be increased, and currently is on a radius curve. The plan shows the driveway goes straight up, there is no radius, and is an 11% grade, which is a considerable increase to what is existing. Candy Graves, 5 Hillcrest Drive, the present percent of grade is 9% coming up off the top of the gambrel barn from their driveway onto Hillcrest. There are two barns on the property, one down in the field, the lower horse barn, and the gambrel barn which is at the top of the cul-de-sac. Mr. Paine asked Mr. Graves about the drainage that currently comes from the cul-de-sac and down onto his property line. Mr. Graves stated it is going into a detention pond and not just coming out of a 36 inch culvert. Mr. Graves explained the water is being collected into moderately well drained soils so the infiltration would be better than what is being proposed into poorly drained soils. Mr. Austin stated to the planning board that the pond location in the cul-de-sac design and the pond location orientation discharge pipe are not designed in either of the proposed plans. Mr. Canada asked Mr. Graves if there was a drilled well on his property. Mr. Graves stated no. Mr. Ring stated the hydro cad has been done for each pond and he is confident that the information is correct, what has not been done is pull the hydro cad out of the computer and print it into a 2 inch report. The calculations have been done and would be tweaked a little depending on which way it goes, but the report has not been printed or reviewed by Civilworks.

Mr. House asked Mr. Graves if he is concerned with the infiltration or the runoff. Mr. Graves stated both. Mr. House stated the through road has the runoff going off in a different direction and the original cul-de-sac design doesn't change the grade so it remains.

Darrin Brockelbank, 110 High Street, stated he likes his back yard just the way it is, quiet with wildlife, but doesn't want to deny the Sullivan's right to develop their property. Mr. Brockelbank questioned if the applicant went for fewer lots, to help with the odd shaped lots, would some of the issues with the road be alleviated if there was more land at their disposal to put such a road in. Mr. Baskerville does not believe that to be the case, the irregular shaped lots are an existing condition, which are long and narrow.

384
385 Scott Longwell, 1 Whittaker Drive, stated he is an abutter to the street, not the development
386 and is swayed and impressed by the difficulty of a through road, but would like to state that
387 as a walker and cyclist he appreciates the planning board's attempts to make the city more
388 walkable. Two cul-de-sacs would be removed so that is a net gain to make up for some of
389 those already approved and understands that nobody wants a road in their backyard.

390
391 Mr. Houghton stated he is missing where the proposed plans show what the lots sizes are. Mr.
392 Ring stated the lots sizes are on the A1 plan. Mr. Ring stated Lot #1 is 2.00 acres, Lot #2 is
393 2.85 acres, Lot #3 is 2.10 acres, Lot #4 is 2.05 acres, Lot #5 is 2.02 acres, and the existing
394 house at the end of Whittaker is 2.48 acres. Mr. Paine stated he appreciates the public's input
395 on this proposed subdivision to help make some determinations and understands their concerns.
396 Mr. Paine stated the through road has constraints and concerns, and based on the facts
397 presented he would go with the cul-de-sac. Mr. Houghton stated connectivity, walkability, and
398 to enjoy the environment are all aspects of what people value about the community you live in.
399 Mr. Houghton and Mr. Baskerville asked the applicant to consider, with the ample room
400 available on Lot #2, to add an easement with a 5 ft. paved walkway that connects Hillcrest and
401 the cul-de-sac. Mr. Canada stated what is being proposed goes strictly against what the staff,
402 professionals, and safety folks are recommending and what the town regulations call for.
403 Accessibility may become an issue and the Graves may not be conducive to that. Mr. House
404 asked for clarification that with a right of way you can only put a road in and not a sidewalk.
405 Mr. Austin stated if the 50 ft. right of way dedication is for the purpose of a road does it include
406 any other variance of paved public improvement, of which he is unsure of the answer.

407
408 Mr. Canada made a motion that the board finds a through road from Hillcrest Avenue to
409 Whittaker Drive to be practical. Mr. Houghton seconded the motion.

410
411 Mr. House asked for clarification from Mr. Ring that coming down Hillcrest, why is it narrower
412 than the existing when you make the turn. Mr. Ring explained it is 22 ft. wide plus the 1 ft.
413 curb on either side. Mr. House asked that the curve be a little wider and asked if a firetruck can
414 fit down the road. Mr. Ring agreed and will work with Mr. Lavery and, yes, a firetruck can fit
415 down the road.

416
417 Mr. Baskerville asked Mr. Austin to read the findings:

- 418
419 1. The Stratham Master Plan calls for an interconnected road network that minimizes the number
420 of dead-end, or single access point developments.
- 421 2. Both the Whittaker Drive and Hillcrest Drive developments were approved with Town Roads
422 by the Town Planning Board with 50' right-of-ways for future roadway extension to the
423 project parcel thereby effectively establishing a *Master Plan* or *Official Map*.
- 424 3. The applicant has demonstrated that a through road can be developed within the existing
425 rights-of-ways from Whittaker and Hillcrest Drives.
- 426 4. The applicant has not, in the opinion of the Planning Board or the Town's third party review
427 engineer, demonstrated that topographical conditions exist which make continuation of the
428 principal street existing in the adjoining subdivisions impractical as specified in Subdivision
429 Regulation 4.4.3.

- 430 5. The Planning Board may only consider dead-end road development if topographical
431 conditions which make continuation of the principal street existing in the adjoining
432 subdivisions impractical.

433
434 Mr. Baskerville agrees with points 1-4 and does not agree with #5. Mr. Baskerville stated the
435 planning board is to use their discretion and there are other factors to base that decision on and not
436 just topography.

437
438 Mr. Canada made a motion to incorporate findings 1-4 of staff comments that the board finds a
439 through road from Hillcrest Avenue to Whittaker Drive to be practical. Mr. Paine seconded the
440 motion. Motion carried unanimously.

441
442 Mr. Austin stated the applicant submitted a waiver request to 4.4.3, in its entirety, at an earlier
443 hearing. Mr. Deschaine, Town Administrator, stated the application before the board is for a cul-
444 de-sac and the applicant has the option to say they don't agree and the through road is impractical
445 and therefore, ask for a vote on the current cul-de-sac application. The board can choose to
446 approve or deny, or affirm there is other work to be done. Mr. Baskerville explained to the board
447 that the applicant submitted an application for a cul-de-sac, the board requested the applicant
448 come back to show both a through road and cul-de-sac, but the only application submitted was for
449 the cul-de-sac. Attorney Baum asked for clarification as it sounds like there is a third option on
450 the table which is under discussion by the board which would be a waiver of 4.4.3 and a finding
451 that the cul-de-sac is an approvable proposal for other reasons other than topographical
452 impracticality, which is what the discussion Attorney Baum heard by the board. Attorney Baum
453 asked for clarification of what the next step is to go forward. Mr. Houghton asked if the applicant
454 is willing to discuss a cul-de-sac that has an easement to provide pedestrian access from Whittaker
455 through to Hillcrest. Mr. Ring stated the applicant is willing to consider that option. Mr. Canada
456 asked if the board is willing to consider this since the board just agreed a through road is practical.
457 Mr. Baskerville stated that strictly, per the regulations and per town staff, it appears that a through
458 road makes the most sense, and the abutters have been heard and are strongly opposed to a
459 through road. Mr. Graves concerns are valid and there are other mitigating issues and this is not a
460 one issue decision. Mr. House asked Mr. Ring if some changes could be made to the design of the
461 through road drawing and the pipe that runs from the road to the back of Lot #3, and the cul-de-
462 sac drawing where there is a detention pond roughly in the same area on Lot #3. Mr. Ring stated
463 there are some limiting factors with respect to the leachfield test pits and pushing that way down
464 back would affect the leachfields on Lots #3 and #4. Mr. Canada stated the discussion taking
465 place is on speculative issues, and what is not speculative is that the fire department and highway
466 department agree a through road is a better design. Mr. Canada stated the applicant should not be
467 continually asked to keep designing the cul-de-sac option when it appears that a through road is
468 practical and any consideration the board gives on speculative problems is not appropriate. The
469 board should not encourage the applicant to come back to the board, having done further work and
470 independent review, of the cul-de-sac which Mr. Canada stated could be doomed for failure. Mr.
471 Baskerville agreed with Mr. Canada. Mr. Austin reminded the board that the applicant needs to
472 decide how they would like to proceed. Attorney Baum disagreed with Mr. Canada and
473 understands there is some sentiment on the board that the through road is the way to go and the
474 cul-de-sac doesn't work and there is some sentiment that there are non-topographical issues that
475 suggest the cul-de-sac is the better approach. Attorney Baum requested a decision on the waiver
476 for 4.4.3 so there is a decision made whether the way to go forward is a cul-de-sac or through
477 road. Mr. Austin explained the board needs to continue the public hearing to a date specific and
478 request more information and the applicant would have to submit more information 10 days prior
479 to the date specific in order to be reviewed and come back to the board; or the applicant can
480 withdraw the application and resubmit; or ask the board to vote on the cul-de-sac tonight.

Attorney Baum requested to continue the application to the January 3, 2018 meeting and a letter will be submitted to waive the 65 day requirement.

Mr. Houghton made a motion to continue this application until January 3, 2018. Mr. House seconded the motion. Motion carried unanimously.

- b. Minor Subdivision Application** to create one new building lot at 104 Union Road, Stratham, NH 03885, Map 15 Lot 72, submitted by Jones & Beach Engineers, Inc., PO Box 219, Stratham, NH on behalf of property owners William & June Doyle Trustees, 138 Holly Lane, Portsmouth, NH 03801.

Mr. Austin stated this project came to staff's attention to request a demolition permit of the existing structure on 104 Union Road. There was an onsite meeting with the demolition review committee and other town staff, and ultimately the applicant decided not to pursue the demolition of the structure but propose a simple, 2-lot porkchop subdivision that meets all the current ramifications of the porkchop and subdivision regulations. Mr. Austin requested the planning board accept the application as complete and briefly make a determination if the plan is to be reviewed by Civilworks and if Civilworks will need to review prior to voting on the application, or if the review can be a conditional precedent before moving forward the ultimate approval of the project and recordation of the mylar.

Mr. Houghton made a motion to accept the application as complete. Mr. Paine seconded the motion. Motion carried unanimously.

Jonathan Ring, Jones & Beach Engineers, introduced Chris Doyle. Mr. Ring explained the parcel is 5 acres on Union Road and Baker Road is across the street. There is an existing house and carriage house on the property, which is historic, and the proposal is to create a porkchop lot with 50 ft. of frontage accessing onto Union Road, adjacent to the existing house, and come in to a buildable area to the back. The lot sizes are 2.42 and 2.58 acres. Test pits and wetland delineation have been done, there is a powerline easement across the back corner, as well as two natural gas easements that run through the back side of the property. The existing well is at the back of the existing house so there is a well radius easement on the porkchop lot at the front and the existing driveway is proposed to remain in place. There is a requirement with the porkchop regulation that the rear lot, the 50 ft. frontage lot, be more than 1.5 times the soil base lot sizing, which have been done by Gove Environmental Services and it is twice the size it needs to be for the minimum.

Mr. Baskerville asked about the site distance plan and the two curves on Union Road which are close together. When leaving the driveway, and looking to the right, is the stone wall in the way of visibility. Mr. Ring stated no, the stone wall is lower and one can see over the stone wall. Mr. Ring stated on the proposed lot a site distance easement could be added to the left on the existing lot. Mr. Baskerville asked for an easement to be approved by staff and Mr. Laverty that the view cannot be blocked. Mr. Paine asked if the proposed driveway goes over the abutting neighbor's well radius and if the driveway can be moved off of the well radius. Mr. Ring stated the protective radius is for a leachfield and to assure there's no effluence going into the ground in the 75 ft. area. Mr. Austin stated the recorded mylar could include a note that the driveway is not to encroach within the well radius. Mr. Deschaine stated it should be included so long as snow removal doesn't push snow on the abutting property owner's property. Mr. House asked Mr. Ring if the driveway, east of Union, is overlapping the new property line. Mr. Ring stated within the well radius easement there will be a slight driveway easement. Mr. House asked if the new driveway to the back lot is pushed over would headlights be headed at an adjacent property. Matt

Sturdevant, 100R Union Road, stated his property is across the street and the property across the street is only vegetation. Mr. Canada stated the Demolition Review Committee found the existing house to be significant to Stratham's heritage and this proposed plan is better than a tear down. Mr. Baskerville stated a site distance and driveway easements are all that is needed to clean up this proposed plan.

Mr. Baskerville opened the hearing up to the public. Mr. Sturdevant, abutter to the south, asked for clarification whether the front lot would allow any other building of the residence on the front lot. Mr. Austin stated no residential structure. Mr. Sturdevant questioned if the buildable area in the back lot could there be a buffer between 100R Union and the proposed lot for a visual break. Mr. Baskerville stated the board is approving the lot and the board has no control over where the applicant chooses the house location. Mr. Canada stated Mr. Sturdevant could plant a buffer once it is known where there house will be located. Discussion ensued regarding the wetland area and the leachfield area.

Mr. Baskerville stated he does not see anything from an engineering standpoint that Civilworks needs to review and that town staff look at the easements to confirm site distance isn't blocked to the left. Mr. Paine agreed.

Mr. Paine made a motion that Civilworks does not need to review this plan. Mr. Canada seconded the motion. Motion carried unanimously.

Mr. Austin asked that conditions that the applicant verify documentation for all easements as discussed this hearing be submitted on the plan for staff review prior to putting together a mylar, as well as subdivision regulations. Mr. Austin requested the applicant submit (1) one full size and (2) two 11x17 paper copies along with the mylar for recording.

Mr. Paine made a motion to approve the minor subdivision application to create (1) one new building lot at 104 Union Road with the conditions noted in subdivision regulations, all town regulation are met, the easements are submitted, reviewed, and approved by town staff before creating the mylar, and that the driveway is placed beyond the limits of the wellhead radius with a note added to the plat. Mr. House seconded the motion. Motion carried unanimously.

4. Public Meeting

Mr. Austin explained the changes made were discussed at the last meeting. Mr. Houghton questioned what the timeframe to get to the hearings. Mr. Austin stated a public hearing will need to be set by December 20, 2017.

a. **Planning Board Workshop to review Section XIX Telecommunication Facilities**

SECTION XIX: TELECOMMUNICATION FACILITIES (Adopted 3/97)

19.1 AUTHORITY

This ordinance is adopted by the Town of Stratham in accordance with the authority as granted in New Hampshire Revised Statutes Annotated 674:16 and 674:21 and procedurally under the guidance of 675:1, II.

19.2 STATEMENT OF PURPOSE AND FINDINGS:

The Town of Stratham hereby declares that the purposes of this Section are to:

~~The purpose of this Ordinance is enacted in order to establish general guidelines for the siting of telecommunication facilities by first evaluating the use of existing utility poles and other suitable structures and for purposes of evaluating new towers, antennas, and distributed antenna systems (DAS) or small cells to enhance and fulfill the following goals:~~

- 19.2.1 Establish standards for the siting of telecommunications facilities including but not limited to, towers, antennas, and distributed antenna systems (DAS) or small cells;
- 19.2.2 Encourage the use of existing structures as an alternative to new tower construction;
- 19.2.3 Encourage the joint use of towers;
- 19.2.4 Encourage the design and construction of towers and antennae which minimize adverse visual impacts;
- 19.2.5 Ensure compliance of all telecommunications facilities with current federal, state, and local regulations;
- 19.2.6 Facilitate the provision of wireless telecommunications services; and
- 19.2.7 Prevent harm to the health, welfare, and visual environment of the Town of Stratham and its citizens.
- 19.2.8 Preserve: The authority of Stratham to regulate and to provide for reasonable opportunity for the siting of telecommunications facilities, by enhancing the ability of providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.
- 19.2.9 Reduce: Adverse impacts such facilities may create, including, but not limited to; impacts on aesthetics, environmentally sensitive areas, historically significant locations, flight corridors, health and safety by injurious accidents to person and property, and prosperity through protection of property values.
- 19.2.10 Provide: For co-location and minimal impact siting options through an assessment of technology, current locational options, future available locations, innovative sighting techniques, and sighting possibilities beyond the political jurisdiction of the Stratham.

- 19.2.11 Permit: The construction of new towers only where all other reasonable opportunities have been exhausted, and to encourage the users of towers and antennas to configure them in a way, including but not limited to, the use of existing utility poles and the siting of new poles as structures to support distributed antenna systems (DAS) or small cells, that minimizes the adverse visual impact of the towers and antennas.
- 19.2.12 Require: Cooperation and co-location, to the highest extent possible, between competitors in order to reduce cumulative negative impacts upon Stratham.
- 19.2.13 Provide: Constant maintenance and safety inspections for any and all facilities.
- 19.2.14 Provide: For the removal of abandoned facilities that are no longer inspected for safety concerns and Code compliance. Provide a mechanism for Stratham to remove these abandoned towers to protect the citizens from imminent harm and danger. This shall include the right of the Town of Stratham to require the removal of abandoned poles whose singular purpose is the support of telecommunications facilities.
- ~~19.2.8 Provide: For the removal or upgrade of facilities that are technologically outdated.~~

19.3 **DEFINITIONS**

- 19.3.1 Alternative Tower Structure: Innovative siting techniques that shall mean man-made trees, clock towers, bell steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers where practical in furthering the Ordinance purpose.
- 19.3.2 Antenna: Shall mean any exterior apparatus designed for telephonic, radio, television, personal communications service (PCS), pager network, or any other communications through the sending and/or receiving of electromagnetic waves of any bandwidth.
- 19.3.3 FAA: An acronym that shall mean the Federal Aviation Administration.
- 19.3.4 FCC: An acronym that shall mean the Federal Communications Commission.
- 19.3.5 Height: Shall mean, when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.
- 19.3.6 Planning Board: Shall mean the Town of Stratham Planning Board and the regulator of this ordinance.
- 19.3.7 Screening: Shall mean the implementation of fencing, landscaping, structure/landscape combination, or other method, in order to minimize the visual impact of a structure or element.
- 19.3.8 Towers and Antennas, Existing: Shall mean any tower or antenna lawfully constructed or permitted prior to the adoption of this ordinance. Shall also mean any tower or antenna lawfully constructed in accordance with this ordinance that predates an application currently before the Planning Board.
- 19.3.9 Telecommunications Facilities: Shall mean any structure, antenna, tower, or other device which provides commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), and personal communications service (PCS), broadband WiFi services, and common carrier wireless exchange access services.

19.3.10 Tower: Shall mean any structure that is designed, constructed, or in any way modified primarily for the purpose of supporting one or more antennas, including but not limited to self-supporting lattice towers, guy towers or monopole towers, the use of existing utility poles, light poles, and surface mounted building telecommunication facilities. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like.

19.4 SITING STANDARDS

19.4.1 General: The uses listed in this section are deemed to be permitted uses that may require further review under this ordinance in accordance with Section 19.7: **Conditional Use Permits**. However, all such uses must comply with other applicable ordinances and regulations of Stratham (including Site Plan Review). The following tables represent the siting standards for the listed uses as delineated by the districts in which they are located in Stratham.

- a. Principal or Accessory Use: Antennas and towers may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure, and;
- b. In all applications for construction of a new telecommunication facility, the applicant must prove by substantial evidence, including but not limited to a town-wide site evaluation plan for coverage that details possible antennae or co-location options which contemplate a 5-year development horizon, that a bona fide need exists for the facility and that no reasonable combination of locations, techniques, or technologies will satisfy the need. The applicant must further prove that it has made all reasonable efforts to procure antenna space on existing telecommunication facilities and that the cost of co-location exceeds the cost of a new telecommunication facility by at least fifty percent, and;
- c. Prior to the issuance of a permit for a new tower, the applicant shall demonstrate commitment to joint use as follows:
 1. The applicant requesting the permit shall submit evidence to the Town of Stratham demonstrating to the Planning Board that a genuine effort has been made to solicit additional users for the proposed new tower. Evidence of this shall include, at a minimum, copies of notices sent by registered mail, return receipt requested, to all other providers of cellular and wireless communications services within Rockingham County and adjacent counties, advising of the intent to construct a new tower, identifying the location, inviting the joint use and sharing of costs, and requesting a written response within fifteen business days.

2. The applicant shall sign an instrument, maintained by the Town of Stratham, agreeing to encourage and promote the joint use of telecommunications towers within the Town and, to that extent, committing that there shall be no unreasonable act or omission that would have the effect of excluding, obstructing or delaying joint use of any tower where fair and just market reasonable compensation is offered for such use; and

- d. The owner of a telecommunication facility shall establish an escrow fund, or provide the Town of Stratham with an irrevocable letter of credit in the same amount, ensuring adequate funds to return the site to pre-telecommunication facility condition. In the event of a transfer of ownership, the seller shall be responsible for notifying the buyer of this requirement and for notifying the Town of the transfer.

Mr. Austin stated this needs to be reviewed by the Town's attorney. Mr. Deschaine recommend "escrow fund" be changed to "performance bond".

19.4.2 Use Districts: (Rev 03/04, 3/17)

	New Tower Construction ¹	Co-location on Existing Structure ²	Co-location on Existing Structure³
Industrial Zone:	CU	P	P
Commercial Zones: (GCBD, CLIO, PRE & TC)	CU ⁴	P	CU
Residential Zones: (R/A, MH, RPC, FMU)	S /CU ⁴	P	CU

P = Permitted Use without Conditional Use Permit

CU = Conditional Use Permit

S = Permitted by Special Exception

¹ An antenna may be located on a tower, newly constructed, under this Ordinance.

² An antenna may be located on an existing tower, constructed prior to the adoption of this ordinance.

~~³ An antenna may be located on other existing structures with certain limitations (See what?)~~

³. Additional requirements, which shall be included in any consideration of the location of any facility, shall include the following:

1. Shall be of an “Alternative” type tower structure as defined in the ordinance.

Flag, light, or other **interior-array** monopole types are recommended for location with any existing or proposed uses.

2. All facilities constructed as a camouflaged tree, shall be located on a parcel, which is no less than 10 acres, buffered by and integrated into the surrounding forest scape, and has a forest management plan which shall provide for the long-term protection of any forest buffers of the facility and associated structures.

3. All tower facilities and supporting structures shall be of a type and design to blend into the primary use of the site. It shall be the Planning Boards responsibility to review the architectural design of any and all supporting structures to ensure compatibility with surrounding properties. **No equipment shed for a telecommunications facility shall exceed 750 square feet in area nor 12 feet in height. All such sheds and other accessory structures shall be screened with vegetation or other aesthetically pleasing materials as determined by the Planning Board. Furthermore, all such sheds shall be secured with approved fencing and a locked gate.**

19.4.3 **Height Requirements:** (Amended 03-04)-

A. These requirements and limitations shall preempt all other height limitations as required by the Stratham Zoning Ordinance and shall apply only to telecommunications facilities. These height requirements may be waived through the Conditional Use Permit process only if the intent of the Ordinance is preserved in impacts, but provides a greater opportunity for co-location.

	New Tower Construction	Co-location on Existing Tower	Co-location on Existing Structure
Industrial Zone:	100'	Current Height	Current Height + 30'
Commercial Zone: (GCBD, CLIO, PRE & TC)	100'	Current Height 10%	Current Height + 30'
Residential Zone:	100'	Current Height 10%	Current Height

B. Telecommunications facilities that simulate objects that typically occur in landscapes similar to the proposed location (except billboards, electrical transmission, or telecommunications towers) may exceed 100 feet in height if, based on the judgment of the Planning Board, it would appear in context on the landscape, as aesthetically acceptable, and would be a preferable alternative to an undisguised facility;

- C. Telecommunications facilities located atop or within existing buildings or structures may result in an overall increase in height of the structure of no more than ten (10) percent of the structure's height without the facility or the maximum height allowed in the zoning district in which the structure is located, whichever is less, provided that any additional height is disguised or screened.

19.5 APPLICABILITY

- 19.5.1 Amateur Radio; Receive-Only Antennas: This ordinance shall not govern any tower, or the installation of any antenna that is under 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas. This application adopts the provisions and limitations as referenced in RSA 674:16, IV.
- 19.5.2 Essential Services & Public Utilities: Telecommunications facilities shall not be considered infrastructure, essential services, or public utilities, as defined or used elsewhere in the Town's ordinances and regulations. Siting for telecommunication facilities is a use of land, and is addressed by this Article.

19.6 CONSTRUCTION PERFORMANCE REQUIREMENTS

- 19.6.1 Aesthetics, Noise, and Lighting: The guidelines in this subsection shall govern the location of all towers, or alternative tower structures, and the installation of all antennas. However, the Planning Board may waive these requirements in accordance with Section 19.8: Waivers. **Any new or modified tower structure shall comply with the Stratham Noise Regulations**
- a. Towers shall either maintain a galvanized steel finisher, subject to any applicable standards of the FAA, or be painted a neutral color, so as to reduce visual obtrusiveness;
 - b. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities with the natural setting and built environment. These buildings and facilities shall also be subject to all other Site Plan Review Regulation requirements;
 - c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible, **and, no equipment shall be installed at height less than fifteen (15) feet above average surrounding grade within fifteen (15) feet of the tower;**
 - d. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views;
 - e. Towers shall not contain any permanent or temporary signs, writing, symbols, or any graphic representation of any kind.

19.6.2 Federal Requirements: All towers must meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna, as abandoned, at the owner's expense through the execution of the posted security.

All support structures, including but not limited to generators, fuel storage facilities, etc., shall comply with the setbacks of the underlying zoning district as applicable at the time of application as well as with the Town Building Ordinance (See Also 19.6.3 below).

19.6.3 Building Codes-Safety Standards: To ensure the structural integrity of towers and antennas, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Town concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within 30 days, such action shall constitute an abandonment and grounds for the removal of the tower or antenna, as abandoned, at the owner's expense through execution of the posted security.

19.6.4 Additional Requirements for Telecommunications Facilities: These requirements shall supersede any and all other applicable standards found elsewhere in Town Ordinances or Regulations that are less strict:

a. Setbacks and Separation:

- i. Towers must be set back a distance equal to 125 percent of the height of the tower from any property line;
- ii. Alternative Tower Structures, guys, and accessory facilities must satisfy the minimum zoning district setback requirements;
- iii. Towers over 90 feet in height shall not be located within one-quarter mile of any existing tower that is over 90 feet in height.
- iv. The setback required for any flag, light or other flush mounted monopole type facility shall be no less than that required within the underlying zone for any other structure after review by the planning board to ensure safe location of such facility.
- v. The Planning Board may after review, require additional setback distances to provide for safety and to reduce impacts to abutting residential properties.

b. Security Fencing:

- i. Towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device.

- 900 ii. Flag, light or other monopole type facility may not require fencing if after review
901 by the **Planning Board** they are determined to have been safely integrated into the
902 site.
903

904 c. Landscaping:
905

- 906 i. Towers shall be landscaped with a buffer of plant materials that effectively screens
907 the view of the tower compound from adjacent residential property. The standard
908 buffer shall consist of a landscaped strip at least **fifteen** (15) feet wide outside the
909 perimeter of the compound;
910
911 ii. In locations where the visual impact of the tower would be minimal or in the case
912 of an “Alternative” design structure, the **Planning Board** may reduce or waive
913 entirely the landscaping requirement;
914
915 iii. Existing mature tree growth and natural landforms on the site shall be preserved to
916 the maximum extent possible. In some cases, such as towers sited on large wooded
917 lots, natural growth around the property may be deemed a sufficient buffer.
918
919
920

921 **19.7 CONDITIONAL USE PERMITS**
922

923 19.7.1 General: All applications under this ordinance shall apply to the Planning Board for Site
924 Plan Review, in accordance with the requirements as provided for in the Town's Site Plan
925 Review Regulations. In addition, applications under this ordinance shall also be required to
926 submit the information provided for in this Section.
927

928 19.7.2 Issuance of Conditional Use Permits: In granting the Conditional Use Permit, the Planning
929 Board may impose conditions to the extent the Board concludes such conditions are
930 necessary to minimize any adverse effect of the proposed tower on adjoining properties.
931

- 932 a. Procedure on application: The Planning Board shall act upon the application in
933 accordance with the procedural requirements of the Site Plan Review Regulations and
934 RSA 676:4.
935
936 b. Decisions: Possible decisions rendered by the Planning Board, include Approval,
937 Approval with Conditions, or Denial. All decisions shall be rendered in writing, and a
938 Denial shall be in writing and based upon substantial evidence contained in the written
939 record.
940
941 c. Factors Considered in Granting Decisions:
942
943 i. Height of proposed tower or other structure.
944
945 ii. Proximity of tower or “**alternative tower structure**” to residential
946 development or zones.
947
948 iii. Nature of uses on adjacent and nearby properties.
949
950 iv. Surrounding topography.
951
952 v. Surrounding tree coverage and foliage.
953

- 954 vi. Design of the tower, with particular reference to design characteristics
955 that have the effect of reducing or eliminating visual obtrusiveness.
956
957 vii. Proposed ingress and egress to the site.
958
959 viii. Availability of suitable existing towers and other structures as
960 discussed in 19.7.3(c).
961
962 ix. Visual impacts on view sheds, ridgelines, and other impacts by
963 means of tower location, tree and foliage clearing and placement of
964 incidental structures.
965
966 x. Availability of alternative tower structures and alternative siting
967 locations.
968

969 xi. Acoustic impact
970

971 19.7.3 Information Required.: Each applicant requesting a Conditional Use Permit under this
972 ordinance shall submit a scaled plan in accordance with the Site Plan Review Regulations
973 and further information including; a scaled elevation view, topography, radio frequency
974 coverage, and calibration data, tower height requirements, setbacks, drives, parking,
975 fencing, landscaping, adjacent uses (up to 200 feet away), and any other information
976 deemed necessary by the Planning Board to assess compliance with this ordinance.
977 Furthermore, the applicant shall submit the following prior to any approval by the Board:
978

- 979 a. The applicant shall submit written proof that the proposed use/facility complies with
980 the FCC regulations on radio frequency (RF) exposure guidelines;
981
982 b. The applicant shall submit written proof that an evaluation has taken place, as well as
983 the results of such evaluation, satisfying the requirements of the National
984 Environmental Policy Act (NEPA) further referenced in applicable FCC rules. If an
985 Environmental Assessment (EA) or an Environmental Impact Statement (EIS) is
986 required under the FCC rules and NEPA, submission of the EA or EIS to the Board
987 prior to the beginning of the federal 30-day comment period, and the Town of
988 Stratham process shall become part of the application requirements;
989
990 c. Each applicant for an antenna and or tower shall provide to the Planning Board an
991 inventory of its existing towers and radiating sites that are within the jurisdiction of
992 the Town and those within two (2) miles of the border thereof, including specific
993 information about the location, height, design of each tower, as well as economic and
994 technological feasibility for co-location on the inventoried towers. The Planning Board
995 may share such information with other applicants applying for approvals or
996 conditional use permits under this ordinance or other organizations seeking to locate
997 antennas within the jurisdiction of the governing authority, provided, however that the
998 Planning Board is not, by sharing such information, in any way representing or
999 warranting that such sites are available or suitable.
1000

1001 If the applicant is proposing to build a new tower, the applicant shall submit written
1002 evidence demonstrating that no existing structure can accommodate the applicant's
1003 proposed antenna(s). This evidence can consist of:
1004

- i. Substantial Evidence that no existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements, provided that a description of the geographic area required is also submitted;
- ii. Substantial Evidence that existing towers are not of sufficient height to meet the applicant's engineering requirements, and why;
- iii. Substantial Evidence that the existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna(s) and related equipment;
- iv. Substantial Evidence that applicant's proposed antennas would cause electromagnetic interference with the antennas on the existing towers or structures, or the antennas on the existing towers or structures would cause interference with the applicant's proposed antenna;
- v. Substantial Evidence that the fees, costs, or contractual provisions required by the owner in order to share the existing tower or structure are unreasonable. Costs exceeding new tower development are presumed to be unreasonable;
- vi. Substantial Evidence that the applicant can demonstrate other limiting factors that render existing towers and structures unsuitable.

~~19.7.4. Co-location Agreement: The applicant proposing to build a new tower shall submit an agreement with the Town that allows for the maximum allowance of co-location upon the new structure. Such statement shall become a Condition to any Approval. This statement shall, at a minimum, require the applicant to supply available co-location for reasonable fees and costs to other telecommunications providers. Failure to provide such an agreement is evidence of the applicant's unwillingness to cooperate with the orderly and well-planned development of the Stratham.~~

19.7.4 Coverage and Capacity Engineering: The applicant shall submit the engineering information detailing the size and coverage required for the facility location. **Where applicants seek capacity relief, compelling data supporting cellular traffic congestion, in addition to coverage data, shall be submitted.** The Planning Board may have this information reviewed by a consultant for verification of any claims made by the applicant regarding technological limitations and feasibility for alternative locations. Cost for this review shall be borne by the applicant in accordance with 676:4(I)(g).

19.8 WAIVERS

19.8.1 General: **The Planning Board, in conjunction with a duly noticed Conditional Use Permit Application, pursuant to the provisions of RSA 674:16 and RSA 674:21, and where the Planning Board determines** that extraordinary hardships, practical difficulties, or unnecessary and unreasonable expense would result from strict compliance with the foregoing regulations or the purposes of these regulations may be served to a greater extent by an alternative proposal, may approve waivers to these regulations. The purpose of granting waivers under provisions of these regulations shall be to insure that an applicant is not unduly burdened as opposed to merely inconvenienced by said regulations. The Board shall not approve any waiver(s) unless a majority of those present and voting shall find that ***all*** of the following apply:

- a. The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property and will promote the public interest;
- b. The waiver will not, in any manner, vary other provisions of the Stratham Zoning Ordinance, Stratham Master Plan, or Official Maps;
- c. Such waiver(s) will substantially secure the objectives, standards, and requirements of these regulations;
- d. A particular and identifiable hardship exists or a specific circumstance warrants the granting of a waiver. Factors to be considered in determining the existence of a hardship shall include, but not be limited to:
- i. Topography and other site features;
 - ii. Lack of availability of alternative site locations;
 - iii. Geographic location of property;
 - iv. Size/magnitude of project being evaluated and availability of future co-location.

19.8.2 Conditions: In approving waivers, the **Planning** Board may impose such conditions as it deems appropriate to substantially secure the objectives of the standards or requirements of these regulations.

19.8.3 Procedures: A petition for any such waiver shall be submitted in writing by the applicant with the application for **Planning** Board review. The petition shall state fully the grounds for the waiver and all of the facts relied upon by the applicant. Failure to provide this written request shall require an automatic denial.

19.9 BONDING AND SECURITY

Recognizing the extremely hazardous situation presented by abandoned and unmonitored towers, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned towers in the event that the tower is abandoned and the tower owner is incapable and unwilling to remove the tower in accordance with section 19.10.

19.10 REMOVAL OF ABANDONED ANTENNAS AND TOWERS

Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned and hazardous to the public health and safety, unless the owner of said tower provides proof of quarterly inspections. The owner shall remove the abandoned structure within 90 days of receipt of a declaration of abandonment from the Town notifying the owner of such abandonment. A declaration of abandonment shall only be issued following a public hearing, noticed per Town regulations, with notice to abutters and the last known owner/operator of the tower. If the abandoned tower is not removed within 90 days the Town may execute the security and have the tower removed, **pursuant to Section 19.4.1 (d), above**. If there are two (2) or more users of a single tower, this provision shall not become effective until all users cease using the tower.

Mr. Houghton made a motion to move the changes to **Section XIX: Telecommunication Facilities** to a public hearing scheduled for December 20, 2017. Mr. Paine seconded the motion. Motion carried unanimously.

Mr. Canada made a motion to add “accessory dwelling units are not allowed for clusters, condominiums, manufactured housing parks”. Mr. Paine seconded the motion. Motion carried unanimously.

Town of Stratham Zoning Amendment Changes

3.6 TABLE OF USES:

USES:		ZONING DISTRICT								
A. <u>RESIDENTIAL USES:</u>		R/A	MAH	PRE	TC	GCBD CZ	GCBD OZ	SC	CLIO	IND
1. Single-Family Dwelling.		P	P	P	P	X	P	X	X	X
2. Two-Family Dwelling.		P	P	P	P	X	P	S	X	X
3. Multi-Family Dwelling in accordance with Section 5.8 of this Ordinance.		X	X	C	P	C	P	C	C	X
4. Cluster Developments by conditional use permit in accordance with Section VIII of this Ordinance. (Rev. 3/99) Also Senior Housing as set forth in Section 5.7 (3/05)		C	X	C	P	C	P	C	X	X
5. Workforce and Elderly Affordable Housing in accordance with Section 5.8 of this Ordinance.		C	X	C	P	C	P	C	C	X
6. Manufactured Housing;		P	P	X	P	C	P	X	X	X
Mobile Homes; in accordance with Section IX of this Ordinance.		X	P	X	X	X	X	X	X	X
7. Home Occupations in accordance with Sections 2.1.27, 5.13 (3/10)		S	S	S	P	C	P	X	X	X
8. Accessory Dwelling Units in accordance with Section 5.4. (Rev. 3/18)		S	S	S	P	C	P	X	X	X
B. <u>TEMPORARY RESIDENTIAL USES</u>										
1. Overnight and Day Camps, Cottage Colonies, Vacation Resorts, and similar Recreational Facilities.		S	S	X	X	C	P	X	X	X
2. Bed and Breakfast Inns.		S	S	S	P	C	P	P	P	X
3. Hotels, Motels, and Hostels. (Rev. 3/98)		X	X	X	P	C	P	P	C	X
C. <u>OUTDOOR/ RECREATIONAL USES:</u>										
1. Forestry, Wildlife, Timber Preserves, Reservoirs, and Nature Study areas.		P	P	P	P	C	P	P	P	P
2. Public Parks and Playgrounds.		P	P	P	P	C	P	P	S	S
3. Commercial Riding Stables and Riding Trails.		S	S	X	X	X	P	X	X	X
4. Historic Building or Site open to public.		P	P	P	P	C	P	P	P	P
5. Recreational Camping Parks, Recreational Areas, Residential Tenting and Recreational Vehicles.		S	S	X	X	C	P	X	X	X
D. <u>AGRICULTURAL / FORESTRY USES:</u>										
1. Agriculture and agritourism as defined in Section II, Definitions, 2.1.6 (Rev. 3/16)		P	P	P	P ¹	C	P	P	P	P
2. Tree Farming, Commercial Timbering, Non-commercial Harvesting of Forest Products.		P	P	X	P ¹	C	P	P	P	S

Change No 8 from “Accessory Apartments” to “**Accessory Dwelling Units**”.

3.9.6 The Board of Selectmen will hereby create a Technical Review Committee (“TRC”) comprised of the Town Planner, a member of the Heritage Commission, and three (3) members and two (2) alternates appointed by the Board of Selectmen and recommended by the Planning Board. The TRC shall process applications for development within the District for the purpose of determining compliance with the provisions of the Ordinance. The TRC may consult with other committees, commissions, and professionals for review and comment on applications within the District. Any cost associated with professional review shall be the

responsibility of the applicant. The TRC review of any application shall be deemed equivalent to a Preliminary Consultation with the Planning Board, however, applicants may also submit for Preliminary Consultation.

Should any construction, site work, or development be commenced without an approved Conditional Use Permit, Subdivision, Site Plan approval, or any should a violation of an approved Development Plan or Conditional Use Permit occur, the Planning Board or the Town Planner has the right to require the property owner to stop, remove, and/or mitigate the violation, or seek the appropriate appeal process to gain compliance. (**Rev. 3/****)

a. Review Process (**Rev 3/****):

- i. Projects that do not require a Conditional Use Permit shall be evaluated for compliance with this ordinance by the TRC, and then be processed by the Planning Board as required under the Subdivision and/or Site Plan Review Regulations of Stratham. Such applications should follow the submission requirements of a Site Plan Review Application.
- ii. For those development applications within the District that include a request for a deviation from the requirements of this ordinance, a complete Site Plan Review Application shall be accompanied with a Conditional Use Permit Application that includes a narrative description of the deviation(s) and a site plan illustrating proposed deviation from any requirement within this ordinance. Deviation from the requirements of this Ordinance shall only be permitted by grant of a Conditional Use Permit issued by the Planning Board. A Conditional Use Permit is a decision that would permit deviation from or reduction in a specific provision(s) of this Ordinance but that is otherwise generally consistent with the provisions of Section 3.8.3 Purpose and Intent (See 3.8.6 a. iii).
- iii. The Planning Board shall have the authority to grant or deny a request for a Conditional Use Permit, pursuant to the provisions of RSA 674:16 and RSA 674:21.A *Conditional Use Permit*, for relief from the requirements of this Ordinance, after proper public notice and public hearing where the Planning Board finds that an application complies with standards 1. and 2. below.
 1. Consistent with the Gateway Business District Master Plan, including but not limited to:
 - a. Both public and private buildings and landscaping shall contribute to the physical definition of streetscapes and public spaces; and
 - b. Development shall adequately accommodate automobiles and emergency vehicles, while respecting the pedestrian and the spatial form of public spaces; and
 - c. Design of streets and buildings shall reinforce safe environments, but not at the expense of accessibility and efficient traffic flow; and
 - d. Architecture and landscape design shall complement climate, topography, community character, and building practice; and

- 1200 e. Open space and public gathering places shall be provided as locations that
1201 reinforce the identity and activity of the District and the community; and
- 1202 f. New development and redevelopment shall be otherwise consistent with the
1203 intent and purpose of this ordinance; and
- 1204 g. Does not unduly impact adjacent properties and uses in the District.
- 1205 2. Improves public safety within the District and/or in adjacent zoning districts; or
1206 provides environmental and natural resource protection; or provides a measureable
1207 public benefit (such as increased public space, open space or public amenities).
- 1208
- 1209 iv. The granting or denial of a Conditional Use Permit by the Planning Board may be
1210 appealed to the Superior Court, as provided for in RSA 677:15. A Planning Board
1211 decision on the issuance of a Conditional Use Permit cannot be appealed to the Zoning
1212 Board of Adjustment (RSA 676:5 iii).

1213

1214 **4.2 TABLE OF DIMENSIONAL REQUIREMENTS**

1215 The Table of Dimensional Requirements shall apply for all lots, uses of land, and
1216 developments within the various districts, unless modified by other sections of this ordinance.
1217 **This section shall not regulate any Gateway (Central or Outer) or Town Center Zoning**
1218 **which are regulated under Section 3.8 and Section 3.9 respectively of this Ordinance.**

1219 **7.4 PERMIT PROCEDURES**

1220 No sign, except as provided by Section 7.5 and Section 7.6 shall be erected, displayed, altered,
1221 relocated, or replaced until the Code Enforcement Officer issues a sign permit.

- 1222 a. **Permit Application:** The Code Enforcement Officer may adopt from time to time such
1223 application procedures as the Code Enforcement Officer may find efficient, provided that
1224 the procedures are consistent with the Sign Ordinance and other applicable law.
1225 Applications for sign permits shall be submitted on forms provided by the Town,
1226 completed as required; at a minimum, they shall have attached the following information,
1227 in either written or graphic form:
- 1228 i. A completed sign permit application form.
- 1229 ii. A certification from a registered engineer and/or licensed architect licensed to practice
1230 in New Hampshire upon request by the Code Enforcement Officer.
- 1231 iii. A non-refundable application review fee in an amount to be set by the Board of
1232 Selectmen.
- 1233 iv. An illustration of the proposed sign(s), drawn to scale, that includes the following
1234 information:
- 1235 1. The total area of the proposed sign(s) in square feet.

2. The proposed support structure for the proposed sign(s).
3. The proposed sign structure height.
4. The setback(s) of the proposed sign(s).
5. The location(s) of the proposed sign(s).
6. The relationship of the proposed sign(s) to the property on which the proposed sign(s) is to be located and/or the buildings thereon.
7. A photograph of existing signage, including dimensions drawn onto the photograph; provided, however, for multi-unit properties, condominiums and the like, the applicant need only submit a photograph detailing existing signage for the Applicant's particular unit.
8. The material from which the proposed sign(s) is to be constructed.
9. Design information such as illumination, function, **name and contact number for individual(s) responsible for the installed sign**, and other essential characteristics of the proposed sign(s).

b. Permit Review and Action:

- i. Completeness Review: The Code Enforcement Officer shall determine whether the sign permit application is complete within ten (10) calendar days after the application is filed.
- ii. All new signage, related to any new development, which may require Site Plan Review and/or Conditional Use Permit and not exempted in Section 7.5 shall receive Planning Board approval prior to the issuance of any permit.
- iii. Decision:
 1. The Code Enforcement Officer shall either approve or deny the sign permit application within the time periods specified below after the Code Enforcement Officer determines that the application is complete. Applications found to be incomplete shall be denied.
 2. Upon a finding by the Code Enforcement Officer that the sign permit application complies with the provisions of this Ordinance, the Code Enforcement Officer shall cause to be issued a sign permit for installation by the applicant. The sign permit shall be issued within ten (10) calendar days of the date on which the application was deemed complete.
 3. If the sign permit application is denied, the applicant shall be notified within ten (10) calendar days of the date on which the application was deemed complete. The notice of denial shall specifically explain any deficiencies in writing in the application and how the applicant may proceed under this Section.
 4. The Code Enforcement Officer shall not consider any sign permit application until the Code Enforcement Officer has determined that the application is complete.
 5. No sign permit shall be issued in any case of an incomplete sign permit application.
 6. No sign permit may be issued until all fees have been paid and other requirements of the Sign Ordinance have been satisfied.

- iv. Approval Criteria: The Code Enforcement Officer shall issue the requested sign permit if the sign permit application complies with this Ordinance. Otherwise, the Code Enforcement Officer shall deny the sign permit application.
- v. Photograph. When the sign has been completed, the Applicant shall photograph **both sides** of the completed sign and forward the photograph to the Code Enforcement Officer; **the photo must show the responsible party's name and contact number displayed on the installed sign.** The Code Enforcement Officer shall then inspect the sign.
- vi. Inspection for Compliance. The Code Enforcement Officer, or a designee, shall perform a final inspection after installation of any approved sign.
- vii. Discrepancies. Any discrepancies between any sign as approved and the sign as constructed shall be identified in writing by the Code Enforcement Officer and may result in the halt of construction and correction of the discrepancy.

7.5 EXEMPT SIGNS (REV. 3/16)

The following signs are exempt from the permit requirements of this Article, but are otherwise subject to the standards contained herein. Any failure to comply with these standards and any other provisions of this Article shall be considered a violation of the Zoning Ordinance.

- a. Nameplate signs giving property identification names or numbers, or names of occupants.
- b. Signs on mailboxes or newspaper tubes.
- c. Signs posted on private property warning the public against trespassing, danger from animals, or restricting specific recreational activities which signs shall each be no greater than two (2) square feet in area.
- d. Signs erected by or on behalf of or pursuant to the authorization of a governmental body, including legal notices, identification and informational signs, and traffic, directional, or regulatory signs.
- e. Signs required by Town Ordinance.
- f. Historic marker signs, provided that said signs are no more than two (2) square feet.
- g. Utility Signs.
- h. Flags of any governmental organization when not displayed in connection with a commercial promotion or as an advertising device. No flag shall be flown from a pole that is more than fifty (50) feet in height.
- i. Directional Signs that do not exceed four (4) square feet each and that bear no advertising matter; **the total number of signs per location shall not exceed two (2) in number.**
- j. Real Estate Signs if limited to one (1) per premises and four (4) square feet in area in residential zones and thirty-two (32) square feet in all other zones. These signs shall be removed within thirty (30) days of settlement or lease of the property. (Rev. 3/17)
- k. Construction Site Identification Signs / Permanent Subdivision Signs shall not exceed thirty-two (32) square feet in area, and shall not be illuminated.

- 1316 l. Signs erected in connection with elections or political campaigns shall comply with all
1317 provisions of NH RSA 664:14-21. No such sign may exceed the sign area permitted for
1318 other signs within the zoning district in which it is located.
- 1319 m. Signs indicating that a special event such as a grand opening, fair, carnival, circus,
1320 festival, or similar event is to take place on the lot where the sign is located. Such signs
1321 may be erected not sooner than fourteen (14) days before the event and must be removed
1322 not later than three (3) days after the event. Please see Section 7.10.b.vi. for number and
1323 area requirements.
- 1324 n. Directory Signs that do not exceed four (4) square feet in area.
- 1325 o. Landmark Signs or other signs that are located on, or are an integral part of, a
1326 property that has been placed on or determined eligible for the National Register of
1327 Historic Places, provided that such signs are recognized as contributing to the National
1328 Register status of the property.
- 1329 p. Flags, of no more than 15 square feet in size and solely containing one word such as
1330 “open”, “antiques”, “food”, or “restaurant”. To be exempt from the sign
1331 permit requirements, Properties are limited to one of these Flags unless the
1332 property is located on a corner and has two (2) sides on a public way in which case the
1333 property may use two of these (2) Flags, one on each side.
- 1334 q. Agricultural Signs are exempt from the sign permit requirements of this Article so long as
1335 on-site signs are limited to directional signs (one roadside, no limit if unseen from the
1336 public right of way) and signs listing agricultural or horticultural products grown or
1337 produced by the resident seller, in season, for such operations as farm stands or Christmas
1338 tree sales. **(Rev. 3/16)**
- 1339 r. Signs no greater than two (2) square feet in area and containing messages such as Open,
1340 Closed, Vacancy, No Vacancy and credit card, telephone, restroom, gasoline prices, and
1341 other similar informational messages.
- 1342 s. Not-For-Profit Fundraising event signs which may be permitted on the same site as a
1343 permitted event, or off-premise on private property, with owner’s permission, subject to
1344 the same time limits as the permitted event, and where such sign may not exceed sixteen
1345 (16) square feet in surface area.
- 1346 t. Temporary Signs not covered in the foregoing categories, provided that such signs meet
1347 the following restrictions:
- 1348 i. Not more than one (1) such sign may be located on any lot;
- 1349 ii. No such sign may exceed six (6) square feet in surface area; and,
- 1350 iii. The maximum sign height shall be six (6) feet above grade to the top of the sign and
1351 its supporting structure.
- 1352 iv. Such a sign may not be displayed for longer than seven (7) consecutive days or no
1353 more than fourteen (14) days out of any one (1) year period.

- v. The Code Enforcement Officer is authorized to mark temporary signs in any reasonable way that does not interfere with the content of the temporary sign so as to ensure compliance with this Article.

7.6 PROHIBITED SIGNS

The following signs are prohibited:

- a. Any sign located within, on, or projecting over a property line which borders a public or private street, highway, alley, lane, parkway, avenue, road, sidewalk, or other right-of-way, except as provided in this Ordinance. The Code Enforcement Officer may cause to be removed any temporary or portable sign erected or displayed upon, or projecting into public property.
- b. Any flashing sign or other sign or lighting device, whether freestanding, on the exterior of the building, or on the inside of a window which is visible beyond the boundaries of the lot or parcel, or from any public right-of-way, with intermittent, animated, flashing, rotating, scintillating, blinking, or strobe light illumination, including a variable electronic message device, or the regulations applicable to a particular sign structure.
- c. Any sign which emits audible sound, odor, smoke, steam, laser or hologram lights, or other visible matter, including any sign that employs any stereopticon or motion picture projection.
- d. Signs, which by reason of location, size, color, or design interfere with public traffic or can be confused with or obstruct the view or effectiveness of any official traffic signal or traffic marking.
- e. Any sign with unshielded incandescent, metal halide, or fluorescent light bulbs.
- f. Any off-premises sign or signs which are located off of the property that they are advertising, except as provided for herein.
- g. Signs located on the roof of any structure.
- h. Any rotating sign.
- i. Any banners, pennants or temporary signs, except as provided for herein.
- j. Any sign attached to any public utility pole or structure, streetlight, tree, fence, fire hydrant, bridge, curb, sidewalk, park bench, or other location on public property, also known as “snipe signs,” except as provided herein.
- k. Strings of light bulbs whether in conjunction with a sign or not except as conventionally used as part of a holiday celebration.
- l. Any sign which causes glare onto a public road or any neighboring property.
- m. Any inflatable sign and other similar permanent objects.
- n. Any sign including a mirror device.
- o. Internally illuminated signs may be permitted only in the Gateway Commercial Business District, Commercial/Light Industry/Office, and Industrial Zoning districts (Rev. 3/96; Rev. 3/98, Rev. 3/11)

- p. Any sign which is placed so as to prevent or inhibit free ingress to or egress from any door, window, or exit way required by the Building Code or the Fire Code; and,
- q. Any sign mounted, attached or painted on a trailer, boat, or motor vehicle when parked, stored, or displayed conspicuously on the public right-of-way or private premises in a manner intended to attract attention of the public for business advertising purposes are considered portable signs within the context of this Ordinance and are prohibited. This provision expressly excludes business signs that are permanently painted on, or magnetically attached to motor vehicles or rolling stock that are regularly and consistently used to conduct normal business activities. However, this section does not prohibit an individual, not engaged in business, to display a sign, mounted, attached or painted on a trailer, boat or motor vehicle, when it is parked for the purpose of a one-time sale of said trailer, boat or motor vehicle.

8.11 MAXIMUM DEVELOPMENT DENSITY (REV. 3/13)

a. Density.

The maximum density for a Residential Open Space Cluster Development shall be determined by use of a yield plan. The purpose of a yield plan is to show the density that is reasonably achievable under a conventional subdivision in accordance with the requirements of the zoning ordinance and subdivision regulations. The Planning Board shall adopt regulations that provide for the generation of a yield plan in accordance with this section.

a. Density Bonus:

The Planning Board may award a development an additional number of lots or units as a density bonus, if the required criteria as performance standards are met. Additional density allowances are based on the number of lots or units achievable under the yield plan baseline. The allowances are cumulative and may be allowed based on the performance standards stated below. In no instance shall the density bonuses awarded exceed 50% of the maximum number of lots or units achievable under the yield plan.

- i. The minimum density bonus, regardless of other frontage or innovative protection bonus achieved, shall be one lot.
- ii. Innovative layout and design of the project to encourage a village or community type environment with such amenities as village greens and parks, community view sheds and/or integration into existing protected farm activities or existing recreational opportunities, the Stratham Planning Board may award the development additional density bonus of up to 10%.
- iii. For the development of new recreational facilities such as parks, playgrounds, **bicycle or pedestrian** trails, and/or community centers are made available to the general public, this bonus may be increased to a maximum of 10%.

iv. Elderly Affordable and Workforce Housing.

1430 To encourage the development of diverse and affordable housing, the following
1431 bonuses for elderly housing, may be granted as follows:

1432 1. If the project is developed as an Elderly Housing Development and no less than
1433 20% of the units are provided as elderly affordable, a density bonus of 10% shall
1434 be awarded. If 50% or more of the units are offered as affordable, a 25% density
1435 bonus shall be granted.

1436 a. Any elderly housing developed under this section must be established and
1437 maintained in compliance with the Fair Housing Act, as amended, 42 U.S.C.
1438 Sec. 3601 et seq. and NH Human Rights Commission Regulations Hum 302.02
1439 62 or Over Housing, 302.03 55 or Over Housing as may be amended.

1440 b. Any applicant seeking approval of a development that is intended to qualify as
1441 elderly affordable housing under this section shall adhere to requirements
1442 stated in Section 5.8.

1443 c. Housing for adults aged 55 and older shall at a minimum provide that at least
1444 80% of the units shall be occupied by at least one person 55 years of age or
1445 older per unit.

1446 d. Within a residential open space cluster development, elderly affordable multi-
1447 family units, as defined under section 8.8.c, may be permitted to be increased
1448 up to a unit count of 6 per building or structure.

1449 2. To encourage the development of diverse workforce housing opportunities, the
1450 Planning Board may allow a density bonus and/or reduction to the minimum
1451 required acreage if certain conditions are met.

1452 a. For developments consisting of twenty (20) acres or greater, the Planning
1453 Board shall grant a density bonus of 15% if the project designate at least 20%
1454 of the units as workforce affordable.

1455 b. The Planning Board may allow a reduction of the minimum open-space cluster
1456 development acreage to ten (10) acres for a plan which guarantees a designated
1457 percentage of units reserved for workforce housing as set forth below:

Percentage of Workforce Units in the Development	Density Bonus Units
40%	30%
25%	25%
20%	15%

1458

1459 c. Within a residential open space cluster development, workforce multi-family
1460 units, as defined under section 8.8.c, may be permitted to be increased up to a
1461 unit count of 6 per building or structure.

1462 d. Any applicant seeking approval of a development that is intended to qualify as
1463 workforce housing under this section shall adhere to the requirements,
1464 standards, and administration of workforce housing as stated in Section 5.8.
1465 Where conflict arises in other sections of the Ordinance, Section VIII. shall
1466 supersede.

1467 vii. Every development seeking such bonuses shall provide the Planning Board with
1468 easements, covenants, or deed restrictions, which shall provide for the perpetual
1469 continuation of the performance standards, which are used in the granting of any
1470 bonus. Said easements, covenants, or deed restrictions shall be reviewed by qualified
1471 legal counsel on behalf of the town (at the developer's expense) and approved by the
1472 Planning Board prior to the issuance of any final approval.

1473 viii. Where a final number is greater than .5, the density number may be rounded up to the
1474 next whole number.

1475 ix. Performance standards and/or subdivision design elements shall not be used to satisfy
1476 more than one density bonus.

1477 x. In no event shall the total density bonus awarded exceed the soil-based carrying
1478 capacity for the entire parcel. The Planning Board may adopt additional regulations
1479 that provide for density bonuses in accordance with this section.

1480 **12.6 PERMITTED USES**

1481 12.6.1 General: The following uses are permitted under this Section:

1482 a. Any Use Otherwise Permitted: By the Zoning Ordinance and by State and Federal laws
1483 that does not involve the erection of a structure, and does not alter the surface
1484 configuration of the land by the addition of fill or by dredging, except as a common
1485 treatment associated with a permitted use, and provided that a buffer strip of natural
1486 vegetation 75 feet in width along the Squamscott River, Great Bay Estuary, and associated
1487 tidal marshes, and 50 feet in width elsewhere, be maintained between the area of use and
1488 the shoreline or upland extent of the tidal marsh;

1489 b. Agriculture: Including grazing, hay production, truck gardening, and silage production,
1490 provided that such use is shown not to cause significant increases in surface or
1491 groundwater contamination by pesticides or other toxic or hazardous substances and that
1492 such use will not cause or contribute to soil erosion and stream sedimentation;

- c. Forestry and Tree Farming: To include the construction of access roads for said purpose. Within the Shoreland Protection District the cutting of trees shall be limited to fifty percent (50%) of live trees in a 20-year period;
- d. Wildlife Habitat: Development and management;
- e. Recreational Uses: Consistent with the purpose and intent of this Section as defined in Section 12.2;
- f. Conservation Areas: And nature trails;
- g. Water Impoundment: And the construction of well water supplies;
- h. Drainage Ways: To include streams, creeks, or other paths of normal runoff water and common agricultural land drainage;
- i. The Construction of Fences, Footbridges, Catwalks, and Wharves Only, provided:
 - i. Said structures are constructed on posts or pilings so as to permit the unobstructed flow of water;
 - ii. Structures do not obstruct navigation on tidal creeks;
 - iii. The natural contour of the shoreline is preserved;
 - iv. The Planning Board has reviewed and approved the proposed construction.

12.6.2 Conflicting Provisions: In the event that the provisions of the Shoreland Protection District are found to conflict with other provisions of the Stratham Zoning and Land Use Ordinance, the more restrictive shall apply.

12.6.3 Effect on Lot Size: Areas within the Shoreland Protection District may be considered as part of a minimum lot size normally required by the Zoning Ordinance and Subdivision Regulations of the Town of Stratham.

12.6.4 Special Exception for Lots of Record: Upon application of the Board of Adjustment, a special exception shall be granted to permit the erection of any structure within the Shoreland Protection District provided that all of the following conditions are found to exist:

Mr. Houghton made a motion to move the Zoning Amendments, other than the Telecommunication Facilities, as presented to the board for consideration this evening to a public hearing scheduled for December 20, 2017. Mr. Paine seconded the motion. Motion carried unanimously.

1526 **5. Adjournment.**

1527

1528 Mr. Canada made a motion to adjourn the meeting at 9:56 pm. Mr. House seconded the
1529 motion. Motion carried unanimously.